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Attorneys for Defendant
MARIO LAVANDEIRA dba Perez Hilton

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

X17, INC., a California corporation,

Plaintiff,

vs.

MARIO LAVANDEIRA, dba Perez
Hilton, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO. CV 06-07608 (VBF) (JCx)

**DEFENDANT'S NOTICE OF
MOTION AND MOTION FOR
SUMMARY JUDGMENT OR, IN
THE ALTERNATIVE, PARTIAL
SUMMARY JUDGMENT**

Date: January 21, 2008

Time: 1:30 p.m.

Room: 9

*Lodged
Proposed Judgment and Statement
of Uncontroverted Facts*
ORIGINAL

2007 DEC 17 PM 5:18
CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

FILED

TO PLAINTIFF AND ITS ATTORNEY OF RECORD:

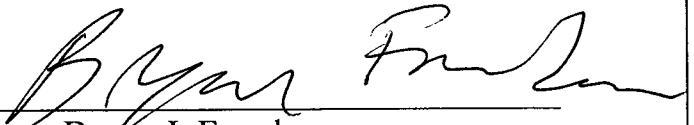
NOTICE IS HEREBY GIVEN that on January 21²⁸, 2008 at 1:30 p.m., or as soon thereafter as counsel may be heard by the above-entitled Court, located at 312 N. Spring Street, Los Angeles, California 90012, Courtroom 9, Defendant Mario Lavandeira, individually and doing business as "Perez Hilton," will and hereby does move the Court for summary judgment or, in the alternative, partial summary judgment on the ground that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law for the reasons that:

- Plaintiff X17, Inc.'s copyright applications are invalid because X17 falsely stated to the Copyright Office that the photographs were works "made for hire;"
- X17's invalid copyright registrations nullifies the Court's subject matter jurisdiction;
- The purported assignment agreements do not cure X17's false representations to the Copyright Office;
- 56 of the photographs were registered when X17 had no rights;
- X17 cannot maintain its claim for statutory damages and attorneys' fees on a majority of the photographs because it has not met the statutory prerequisites for such relief; and
- X17's "hot news" misappropriation claim fails as a matter of law because X17 cannot meet the required elements for such a claim.

This motion is based upon this notice of motion and motion, the accompanying memorandum of points and authorities, the declarations of Mario Lavandeira and Michael M. Amir, the compendium of exhibits to the Michael Amir Declaration, the separate statement of uncontroverted facts, all pleadings and papers on file in this action, and upon such other matters as may be presented to the Court at the time of the hearing.

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2 Dated: December 17, 2007

FREEDMAN & TAITELMAN LLP
DOLL AMIR & ELEY LLP

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5 By: 
6 Bryan J. Freedman
7 Attorneys for Defendant
8 MARIO LAVANDEIRA dba
9 Perez Hilton
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